

SECOND REGULAR SESSION

SENATE BILL NO. 717

95TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR VOGEL.

Pre-filed December 23, 2009, and ordered printed.

TERRY L. SPIELER, Secretary.

4088S.011

AN ACT

To repeal sections 105.716 and 144.083, RSMo, and to enact in lieu thereof three new sections relating to no tax due statements.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Sections 105.716 and 144.083, RSMo, are repealed and three
2 new sections enacted in lieu thereof, to be known as sections 32.088, 105.716 and
3 144.083, to read as follows:

**32.088. 1. Beginning January 1, 2012, the possession of a
2 statement from the department of revenue stating no tax is due under
3 sections 143.191 to 143.265 or sections 144.010 to 144.510, and sections
4 143.431 to 143.471 or sections 147.010 to 147.120 if an assessment for
5 which tax is due under sections 143.431 to 143.471 and sections 147.010
6 to 147.120 has become final under section 143.621, and that no fees are
7 due under sections 260.262 or 260.273, shall be a prerequisite to the
8 issuance or renewal of any city or county occupation license or any
9 state license required for conducting any business. The statement of
10 no tax due shall be dated no longer than ninety days before the date of
11 submission for application or renewal of the city or county license.**

**12 2. Beginning January 1, 2012, in lieu of the provisions of
13 subsection 1 of this section, the director may enter into an agreement
14 with any state agency responsible for issuing any state license for
15 conducting any business requiring the agency to provide the director
16 of revenue with the name and Missouri tax identification number of
17 each applicant for licensure with, or licensee of, such entities within
18 one month of the date the application is filed or at least one month**

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

19 **prior to the anticipated renewal of a licensee's license. If such licensee**
20 **is delinquent on any taxes under sections 143.191 to 143.265 or sections**
21 **144.010 to 144.510, and sections 143.431 to 143.471 or sections 147.010 to**
22 **147.120 if an assessment for which tax is due under sections 143.431 to**
23 **143.471 and sections 147.010 to 147.120 has become final under section**
24 **143.621, or fees under sections 260.262 or 260.273, the director shall**
25 **then send notice to each such entity and licensee. In the case of such**
26 **delinquency or failure to file, the licensee's license shall be suspended**
27 **within ninety days after notice of such delinquency or failure to file,**
28 **unless the director of revenue verifies that such delinquency or failure**
29 **has been remedied or arrangements have been made to achieve such**
30 **remedy. The director of revenue shall, within ten business days of**
31 **notification to the governmental entity issuing the license that the**
32 **delinquency has been remedied or arrangements have been made to**
33 **remedy such delinquency, send written notification to the licensee that**
34 **the delinquency has been remedied. Tax liability paid in protest or**
35 **reasonably founded disputes with such liability shall be considered**
36 **paid for the purposes of this section.**

105.716. 1. Any investigation, defense, negotiation, or compromise of any
2 claim covered by sections 105.711 to 105.726 shall be conducted by the attorney
3 general; provided, that in the case of any claim against the department of
4 conservation, the department of transportation or a public institution which
5 awards baccalaureate degrees, or any officer or employee of such department or
6 such institution, any investigation, defense, negotiation, or compromise of any
7 claim covered by sections 105.711 to 105.726 shall be conducted by legal counsel
8 provided by the respective entity against which the claim is made or which
9 employs the person against whom the claim is made. In the case of any payment
10 from the state legal expense fund based upon a claim or judgment against the
11 department of conservation, the department of transportation or any officer or
12 employee thereof, the department so affected shall immediately transfer to the
13 state legal expense fund from the department funds a sum equal to the amount
14 expended from the state legal expense fund on its behalf.

2. All persons and entities protected by the state legal expense fund shall
16 cooperate with the attorneys conducting any investigation and preparing any
17 defense under the provisions of sections 105.711 to 105.726 by assisting such
18 attorneys in all respects, including the making of settlements, the securing and

19 giving of evidence, and the attending and obtaining witness to attend hearings
20 and trials. Funds in the state legal expense fund shall not be used to pay claims
21 and judgments against those persons and entities who do not cooperate as
22 required by this subsection.

23 3. The provisions of sections 105.711 to 105.726 notwithstanding, the
24 attorney general may investigate, defend, negotiate, or compromise any claim
25 covered by sections 105.711 to 105.726 against any public institution which
26 awards baccalaureate degrees whose governing body has declared a state of
27 financial exigency.

28 4. Notwithstanding the provisions of subsection 2 of section 105.711, funds
29 in the state legal expense fund may be expended prior to the payment of any
30 claim or any final judgment to pay costs of defense, including reasonable
31 attorney's fees for retention of legal counsel, when the attorney general
32 determines that a conflict exists or particular expertise is required, and also to
33 pay for related legal expenses including medical examination fees, expert witness
34 fees, court reporter expenses, travel costs and ancillary legal expenses incurred
35 prior to the payment of a claim or any final judgment.

36 **5. Notwithstanding any other provisions, no funds may be**
37 **expended from the state legal expense fund except upon the production**
38 **of a no tax due statement from the department of revenue by the party**
39 **making claim or having judgment pursuant to section 105.711, which**
40 **shall be satisfied from such fund. If the party is found by the director**
41 **of revenue to owe a delinquent tax debt to the state of Missouri under**
42 **the revenue laws of this state, any funds to be paid to the party from**
43 **the state legal expense fund shall be offset to satisfy such tax debt**
44 **before payment is made to the party making claim or having judgment.**

144.083. 1. The director of revenue shall require all persons who are
2 responsible for the collection of taxes under the provisions of section 144.080 to
3 procure a retail sales license at no cost to the licensee which shall be prominently
4 displayed at the licensee's place of business, and the license is valid until revoked
5 by the director or surrendered by the person to whom issued when sales are
6 discontinued. The director shall issue the retail sales license within ten working
7 days following the receipt of a properly completed application. Any person
8 applying for a retail sales license or reinstatement of a revoked sales tax license
9 who owes any tax under sections 144.010 to 144.510 or sections 143.191 to
10 143.261, RSMo, must pay the amount due plus interest and penalties before the

11 department may issue the applicant a license or reinstate the revoked license. All
12 persons beginning business subsequent to August 13, 1986, and who are required
13 to collect the sales tax shall secure a retail sales license prior to making sales at
14 retail. Such license may, after ten days' notice, be revoked by the director of
15 revenue only in the event the licensee shall be in default for a period of sixty days
16 in the payment of any taxes levied under section 144.020 or sections 143.191 to
17 143.261, RSMo. Notwithstanding the provisions of section 32.057, RSMo, in the
18 event of revocation, the director of revenue may publish the status of the business
19 account including the date of revocation in a manner as determined by the
20 director.

21 2. The possession of a retail sales license and a statement from the
22 department of revenue that the licensee owes no tax due under [sections 144.010
23 to 144.510 or sections 143.191 to 143.261, RSMo,] **section 32.088** shall be a
24 prerequisite to the issuance or renewal of any city or county occupation license
25 or any state license which is required for conducting any business [where goods
26 are sold at retail]. The date of issuance on the statement that the licensee owes
27 no tax due shall be no more than ninety days before the date of submission for
28 application or renewal of the local license. The revocation of a retailer's license
29 by the director shall render the occupational license or the state license null and
30 void.

31 3. No person responsible for the collection of taxes under section 144.080
32 shall make sales at retail unless such person is the holder of a valid retail sales
33 license. After all appeals have been exhausted, the director of revenue may notify
34 the county or city law enforcement agency representing the area in which the
35 former licensee's business is located that the retail sales license of such person
36 has been revoked, and that any county or city occupation license of such person
37 is also revoked. The county or city may enforce the provisions of this section, and
38 may prohibit further sales at retail by such person.

39 4. [In addition to the provisions of subsection 2 of this section, beginning
40 January 1, 2009, the possession of a statement from the department of revenue
41 stating no tax is due under sections 143.191 to 143.265, RSMo, or sections
42 144.010 to 144.510 shall also be a prerequisite to the issuance or renewal of any
43 city or county occupation license or any state license required for conducting any
44 business where goods are sold at retail. The statement of no tax due shall be
45 dated no longer than ninety days before the date of submission for application or
46 renewal of the city or county license.

47 5.] Notwithstanding any law or rule to the contrary, sales tax shall only
48 apply to the sale price paid by the final purchaser and not to any off-invoice
49 discounts or other pricing discounts or mechanisms negotiated between
50 manufacturers, wholesalers, and retailers.

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